IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.22645 of 2004

Between:

1 P. Chengamma, w/o Busaiah,
2 C.V. Ramanaiah, S/o Kesava Rao,
3 N. Venkatasubbaiah, S/o Krishnaiah,
All are R/o GudurTown, Nellore District.

..... PETITIONERS

AND

The Commissioner, Guduru Municipality, Gudur,Nellore District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction declaring the action of the respondent in seeking to remove the bunks of the petitioners erected at old bus stand Gudur summarily as illegal, arbitrary and in violation of principles of natural justice and consequently direct the respondent not to remove the bunks of the petitioners.

Counsel for the Petitioners: MR.P.GANGA RAMI REDDY

Counsel for the Respondent: MR.SRINIVAS DAMMALAPATI

The Court at the stage of admission made the following :

ORDER:

Challenging the action of the respondent-Commissioner, Guduru Municipality in trying to remove the bunks of the petitioners erected at old bus stand, Guduru, the present writ petition is filed.

The case of the petitioners, in brief, is that they had erected small bunks at old bus stand, Guduru about 20 years back and eking out their livelihood by doing petty business. It is stated that the said bunks were demolished during the widening of roads in Gudur Town, and with the permission of the respondent-Commissioner, they had erected bunks again near Bus shelter and are doing petty business. The grievance of the petitioners is that the respondent without giving any notice is trying to remove the said bunks arbitrarily. Hence, the writ petition.

Heard the learned counsel for the petitioners and learned Standing Counsel for the respondent-Municipality and at their request, the writ petition itself is taken up for hearing at the stage of admission.

As can be seen from the averments in the writ affidavit, the contention of the petitioners is that after demolition of their old bunks, they had erected the bunks near Bus shelter with the permission of the respondent-Commissioner and doing petty business. But, the petitioners have not produced any material before this Court to substantiate their contention that the respondent-Commissioner permitted them to erect bunks in a public place like bus shelter. On the other hand, learned Standing Counsel appearing for the respondent-Municipality submits that the bunks erected by the petitioners in a public place like bus shelter is causing inconvenience to the

public, and as such, the respondent-Commissioner is taking steps to remove the bunks.

Having regard to the writ averments, which are in the nature of disputed questions of fact, and the circumstance that the petitioners, without any permission, appear to have erected bunks in a public place like bus shelter thereby causing inconvenience to the public, I am not inclined to go into the merits of the matter. However,
in view of the fact that the petitioners have been eking out their livelihood by doing petty business for a considerable time in the bunks and the fact that the bunks are situated near the bus shelter, I deem it just and proper to grant some time to the petitioners to remove the alleged encroachments/bunks erected by them from the site in question. In these circumstances, the petitioners are directed to remove the bunks and handover the vacant possession of the site to the respondent-Municipality within a period of two months from today. In default, the respondent-Commissioner is at liberty to take appropriate steps to evict the petitioners and remove the bunks.

Subject to above observations, the writ petition is disposed of at the stage of admission.

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(N.V. RAMANA, J)

Date: 15.12.2004

Nsr/Bsc

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner, Guduru Municipality, Gudur,Nellore District.

2. Two CD copies.